S.B. Civil Misc. Appeal No.1507/2004

Oriental Insurance Co. Ltd. Vs. Smt. Udi Devi & Ors.

Date of Order :: 06-10-2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. Dinesh Mehta, for the appellant.

Heard learned counsel for the appellant.

Learned counsel for the appellant vehemently submitted that the owner of the vehicle has produced absolutely forged cover-note with intention to fasten liability upon the appellant Insurance Company. Appellant Insurance Company categorically submitted reply to the application filed under Section 140 of the Motor Vehicle Act, 1988 and stated that such cover-note was never issued by any of the office from entire Rajasthan State. Not only this, even appellant submitted an application calling upon the owner of the vehicle to produce the original cover-note but he did not produce such cover-note on the pretext that he has lost the original cover-note.

According the learned counsel for the appellant, in such circumstances, the Tribunal has committed serious illegality in holding that the appellant Insurance Company is liable to pay compensation of Rs.50,000/-. He submits that in case accident occurred and was caused by the vehicle in question, then at this stage, the owner should have been directed to pay the compensate

amount and upon proving his contract for insurance with appellant, ultimately, in the main petition any direction could have been issued against the appellant Insurance Company.

The arguments raised by the learned counsel for the appellant appears to be attractive but at the same time, I cannot ignore that this was a matter under Section 140 of the Motor Vehicles Act and where detailed enquiry cannot be held about the allegations and counter allegations. There is a documentary evidence, evidencing the insurance of the vehicle with the appellant Insurance Company. The appellant’s oral contention is that no such cover-note was issued by any of the office of the entire Rajasthan State but this issue can be decided only in the main petition and on the basis of the mere statement of the appellant company, if the court below has not discarded the document which was produced by the owner of the vehicle, I do not find any reason to interfere in the appeal.

The appeal of the appellant is dismissed.

[PRAKASH TATIA],J.

Praveen